(	ase 3:08-mc-80067-VRW	Document 13	Filed 06/29/2008	Page 1 of 3	
1 2 3 4	Lisa L. Halko California State Bar No. 148873 GREENBERG TRAURIG, L.L.P. 1201 K Street, Suite 1100 Sacramento, California 95814 (916) 442-1111 - Telephone (916) 448-1709 - Facsimile				
5	OF COUNSEL:				
6	Lori G. Cohen Georgia State Bar No. 174455 Pro Hace Vice Admission Pending Christiana C. Jacxsens Georgia State Bar No. 233912 Pro Hace Vice Admission Pending GREENBERG TRAURIG, L.L.P. The Forum 3290 Northside Parkway, Suite 400 Atlanta, GA 30327 (678) 553-2100 - Telephone (678) 553-2212 - Facsimile  Attorneys for Defendants Synthes Spine Company, L.P. and Spine Solutions, Inc.				
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14	and Spine Solutions, Inc.				
15	UNITED STATES DISTRICT COURT				
16	FOR THE NORTHERN DISTRICT OF CALIFORNIA				
17	SAN FRANCISCO				
18					
19	CALVIN TIMBERLAKI KAREN TIMBERLAKE		) CASE NO. CV 0	8 80067MISC	
20 21	Plaintiffs,	,	) CASE NO. 6-08- ) Tex.)	CV-0004 (S.D.	
22	,		)	DNED	
23	vs.		) <del>[PROPOSED]</del> ORDER ) GRANTING WITHDRAWAL		
24	SYNTHES SPINE COM	PANY, L.P.	) WITHOUT PRE ) PLAINTIFFS' N	ON-PARTY	
25	Defendant 		) SUBPOENA ON ) ZUCHERMAN,		
26					
27	ORDER  Plaintiff: Calain Timberlate and Karat Timberlate and Record Timberlate and Recor				
28	Plaintiffs Calvin Timberlake and Karen Timberlake and Defendant Synthes  1 Case No. CV 08 80067 MISC				
	[Proposed] Order Granting Withdrawal Without Prejudice of Plaintiffs' Non-Party Subpoena on James Zucherman, M.D.				
	ATT 40.074.046.0				

Spine Company, L.P. (hereinafter collectively "the Parties") entered into a Stipulation of Agreement Regarding Plaintiffs' Subpoena for Records, which was filed with this Court on April 24, 2008 along with the Parties' Consent Motion for Stay of These Proceedings. Pursuant to the Parties' Stipulation of Agreement Regarding Plaintiffs' Subpoena for Records, Plaintiffs agreed to withdraw any non-party subpoenas issued, but not served upon the non-party at the time the Stipulation of Agreement was executed. Accordingly, the parties request withdrawal of the non-party subpoena issued upon James Zucherman, M.D., without prejudice to refiling, as it has not been served upon non-party James Zucherman, M.D. Further, the Parties have agreed that any previously imposed deadlines to Reply to Plaintiffs' Response to Synthes' Motion to Quash the Subpoena, without waiving any objections by Synthes' to the subpoena, are hereby moot.

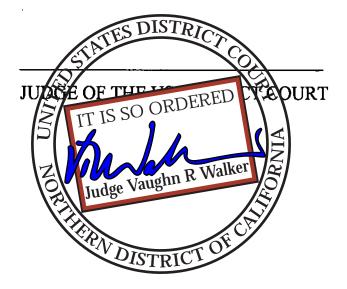
Considering the withdrawal of the of the non-party subpoena issued upon James Zucherman, M.D., it is now unnecessary for the Court to go forward with the motion hearing scheduled for July 3, 2008 or to rule on the pending Motion to Quash that subpoena.

The Parties have agreed to confer in a good faith attempt to define the parameters of a reissued subpoena, without prejudice to the Plaintiffs' ability to refile the subpoena in a manner they consider to be consistent with the provisions of Fed. R. Civ. Pro. 45, and without prejudice as well to the rights of the Defendants, Synthes Spine Company, L.P., et. al, and any third parties subpoenaed within the jurisdictional confines of the United States District Court for the Northern District of California to take such action, including but not limited to objections under Fed. R. Civ. P. 45(c) and (d) to object to the scope of production to any reissued subpoena.

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It is ORDERED that the subpoena that is currently the subject of consideration by this Court issued to James Zucherman, M.D. be and hereby is considered withdrawn by the Plaintiffs in accordance with the provisions of this Order, without prejudice to refiling as set forth above and that the hearing scheduled for July 3, 2008 will no longer go forward.

SIGNED this 23 rd day of June , 2008.



Case No. CV 08 80067 MISC

[Proposed] Order Granting Withdrawal Without Prejudice of Plaintiffs' Non-Party Subpoena on James Zucherman, M.D.

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